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mitted on the foreign ship, disclaimed jurisdiction.⁵ But in *Reg. v. Keyn*⁶ the majority of the court refused to hold a German captain through whose negligent navigation one on board an English vessel was killed. The court distinguished between murder and manslaughter, holding that, since in the latter no intention accompanies the force, the crime occurs at the place of negligence. But just as the intention continues with the force to make the blow murder, so the negligence persists to constitute manslaughter. What is punished is not the negligence but the resulting homicide, and in both cases that takes place where the force strikes the body.

Every vessel while on the high seas is subject to the exclusive jurisdiction of the nation whose flag she flies.⁷ A foreigner on a British ship is punishable under English law;⁸ and, in this country, a murder committed by a foreigner on an American vessel, even within Canadian waters, gives the United States jurisdiction.⁹ Therefore, when the *locus* of a crime is shown to be an English vessel, the jurisdiction of the English courts would seem to be complete. The fact that the culprits were acting from a public vessel rather than a private one is immaterial, for the crews of both must respect the municipal law prevailing in a foreign jurisdiction.¹⁰ If the culprits, then, are found in English territory, there ought to be no difficulty. Extradition, however, would hardly be granted, even if it should be demanded, and redress would, probably, have to be sought through diplomatic channels. The extradition treaty between England and Russia does not cover such a contingency.¹¹ England has acceded to extradition demands for one of its citizens charged with practicing false pretenses on German merchants, though never present in Germany;¹² but the decision has been criticised, and would, probably, not be followed.¹³ To constitute one a fugitive criminal, presence in the demanding state and subsequent flight are deemed necessary.¹⁴

RIGHT OF RECOUPMENT FOR IMPROVEMENTS TO CONVERTED PROPERTY. — The usual rule in trover permits the owner to treat any moment at which wrongful dominion is being exercised over his property as the moment of conversion, and to recover in damages its full value at that time. Where, however, one acting under a *bona fide* mistake has improved the converted property by the expenditure of labor and materials, the decisions clearly trend toward making the value at the time of the original taking the basis of recovery.¹ This relaxation of the general principle, which seems to make the rule of damages in trover depend upon the moral attitude of the converter, is explained in a case lately decided by a federal circuit court in New

⁵ *United States v. Davis*, 2 Sumn. (U. S. C. C.) 482.

⁶ *Supra*.

⁷ *Crapo v. Kelly*, 16 Wall. (U. S.) 610; *Reg. v. Anderson*, L. R. 1 C. C. 161.

⁸ *Rex v. Sattler*, 7 Cox, C. C. 431.

⁹ *United States v. Rodgers*, 150 U. S. 249; recognizing the prevailing doctrine of concurrent jurisdiction of the local country, and that of the ship's flag in such a case. See *Reg. v. Anderson*, *supra*.

¹⁰ See Hall, Int. Law, 5th ed., 195.

¹¹ See Clarke, Extradition, 4th ed., ccclxvii.

¹² *Reg. v. Nillins*, 53 L. J. M. C. 157.

¹³ Clarke, *supra*, 262.

¹⁴ *State v. Hall*, 115 N. C. 811; *Jones, etc. v. Leonard*, 50 Ia. 106; *In re, Mohr*, 73 Ala. 503.

¹ *Winchester v. Craig*, 33 Mich. 205; *Forsyth v. Wells*, 41 Pa. St. 291.

Hampshire. *Dartmouth College v. International Paper Co.*, 132 Fed. Rep. 92. It is there suggested that though the damages are *prima facie* to be determined by the usual rule, yet the *bona fide* converter has by his labor acquired a property right in the article which entitles him to recoup. Whether the expense to which he has been put or the increase in value which he has created, is the measure of this right is in dispute. The basis of the recoupment is quasi-contractual. The fundamental requisite in quasi-contract, the unjust enrichment of the party against whom the claim is made, undoubtedly exists here. An express request that the service be rendered is not required; and the argument that one should not be permitted to thrust himself upon another as his creditor is met by the circumstance that in cases of this kind the converter has simply used the property for the purposes for which it was naturally intended. Where this is not true, or where the owner has special reasons for wanting his property preserved in its original condition, the quasi-contractual grounds fail, and the general rule should be applied.²

The *mala fide* trespasser is usually denied the right of recoupment because in order to establish it he would have to show his own wrong.³ A *bona fide* purchaser from a *bona fide* trespasser may assert the right.⁴ The rights of an innocent purchaser from a *mala fide* trespasser are, however, most difficult of adjustment. Under the strict rules of the common law it is impossible to grant him any relief.⁵ The suggestion that he receives from his vendor a right which the latter could not enforce, seems to involve the establishment of an exception to the general rule that the assignee can acquire nothing from his assignor which the latter did not possess. But, clearly, upon broad principles of justice he is entitled to the value of the trespasser's labor. Though he has not himself done the work upon the property converted, he has paid for that work, and it is he who bears the expense of the unjust enrichment of the original owner. In other cases where the legal remedy in quasi-contract is unavailable, equity gives relief. For example, in the analogous case of improvements made upon land under a *bona fide* mistake as to title, a bill in equity to recover the value of the improvements has been sustained.⁶ If the right to such relief could be established for the innocent purchaser in equity, he might, upon the analogy of equitable defenses at law, be permitted to avail himself thereof by way of recoupment in an action at law.⁷

RESTRICTION OF THE POWER OF ASSIGNMENT. — Whether the maker of a note can restrict its assignment in the hands of the payee by inserting words of non-assignability, seems never to have been squarely decided. A recent *dictum* by the Court of Appeals of Missouri, however, holds that such expressions are ineffectual except to make the note non-negotiable. *Herrick v. Edwards*, 81 S. W. Rep. 466. The court relies on the analogy of the rule against restraints on the alienation of land and chattels; but plainly there is a distinction between the absolute transfer of a chattel and

² See *Isle Royale Mining Co. v. Hertin*, 37 Mich. 332.

³ *Ellis v. Wire*, 33 Ind. 127; but see *Single v. Schneider*, 30 Wis. 570.

⁴ *White v. Tawkey*, 108 Ala. 270.

⁵ *Wooden-Ware Co. v. United States*, 106 U. S. 432.

⁶ *Bright v. Boyd*, 1 Story (U. S. C. C.) 478; *Keener, Quasi-Contracts* 379.

⁷ *Cf. Railroad Co. v. Hutchins*, 32 Oh. St. 571, 37 Oh. St. 282.